

CLD-132

March 5, 2020

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **20-1387**

In re: WILLIE STOKES, Petitioner

Present: JORDAN, KRAUSE and MATEY, Circuit Judges

Submitted is Petitioner's application under 28 U.S.C. § 2244 to file a second or successive petition under 28 U.S.C. § 2254

in the above captioned case.

Respectfully,

Clerk

ORDER

Petitioner's application under 28 U.S.C. § 2244 for leave to file a second or successive petition under 28 U.S.C. § 2254 is granted. Petitioner has made a prima facie showing that the factual predicate for his claim, i.e., the prosecution of Frank Lee for perjury immediately following Petitioner's trial, (i) "could not have been discovered previously through the exercise of due diligence"; and (ii) "the facts underlying the claim . . . would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." 28 U.S.C. § 2244(b)(2)(A)-(B). Our determination is only that Petitioner has made a prima facie showing that he satisfies the requirements of § 2244(b)(2). The District Court will determine independently whether Petitioner has actually satisfied those requirements and whether he is entitled to relief on the claim raised in his proposed habeas petition. The Clerk will transfer Petitioner's application to the District Court for consideration

By the Court,

s/ Cheryl Ann Krause
Circuit Judge

Dated: March 23, 2020

Tmm/cc: Michael J. Diamondstein, Esq.
District Attorney Philadelphia



A True Copy:

Patricia S. Dodsweit

Patricia S. Dodsweit, Clerk